



North Carolina Department of Environment and Natural Resources

Pat McCrory  
Governor

Donald R. van der Vaart  
Secretary

March 20, 2015

Emailed: [CPRICE@CHARAH.COM](mailto:CPRICE@CHARAH.COM)

Charles Price, President & CEO  
Charah, Inc.  
12601 Plantside Drive  
Louisville, Kentucky 40299

**APPROVED**  
**DIVISION OF WASTE MANAGEMENT**  
**SOLID WASTE SECTION**  
DATE 6/5/15 BY RyFut

**RE: Establishment of Financial Assurance Mechanisms for Proposed Structural Fill Sites  
- Brickhaven and Colon Mines**

Dear Mr. Price,

The NCDENR Division of Waste Management - Solid Waste Section (Section) is in receipt of the Addendum 3 dated March 13, 2015, regarding the Permit Applications dated November 2014 for the Brickhaven No. 2 Mine Tract "A" and Colon Mine Site. Pursuant to North Carolina General Statute (NCGS) 130A-309.221(a), for projects involving placement of 8,000 or more tons of coal combustion products per acre or 80,000 or more tons of coal combustion products in total per project, the applicant for a permit or a permit holder to construct or operate a structural fill shall establish financial assurance that will ensure that sufficient funds are available for facility closure, post-closure, maintenance and monitoring, any corrective action that the Department may require, and to satisfy any potential liability for sudden and non-sudden accidental occurrences, and subsequent costs incurred by the Department in response to an incident at a structural fill project, even if the applicant or permit holder becomes insolvent or ceases to reside, be incorporated, do business, or maintain assets in the State.

Per Addendum 3 dated March 13, 2015, you provided a chart which reflects the financial assurance numbers that must be posted prior to obtaining a permit as specified in NCGS 130A-309.221(a). At each site, the largest number of estimated acreage requiring the cap liner system for closure at any point in time according to the applications is 34.8 acres at the Brickhaven Mine and 31.9 acres at the Colon Mine. Should construction of any cell increase the open area of the structural fill above the acreage listed in the permit applications, the financial assurance for the closure costs would need to be adjusted as appropriate prior to constructing the additional fill areas. This provision will be included as a condition in the draft permits. The application also indicates the estimated total post-closure cost for each site, as well as reflects the Potential Assessment and Corrective Action (PACA) cost of \$2,000,000 per site. Based on historical responses to structural fill incidents, the Section has determined that \$65,000.00 per site must be available to cover any costs incurred for incident response.

Please be advised that closure and post-closure care cost estimates provided by Charah will be subject to an annual inflation adjustment. The thirty year post-closure care does not go into effect until the structural fill is completely closed and the Section Permitting Engineer has issued a Closure Permit to the structural fill owner/operator.

The Section has received the Certificate of Liability Insurance for the coverage of sudden and non-sudden accidental occurrences as required per NCGS 130A-309.221(a). Coverage in the amount of at least \$ 4 Million per Occurrence and \$ 8 Million per annual Aggregate shall be maintained during the permit duration including post-closure care. Section comments regarding coverage of sudden and non-sudden accidental occurrences will be addressed in a separate letter.

In summary, the following bulleted items will need to be addressed prior to issuance of a permit:

- The Section requests that Charah contact us to further discuss their plan for establishing financial assurance. Template financial assurance mechanisms will be provided by the Section for establishing appropriate documents.
- Establish financial assurance with a mechanism allowed per NCGS 130A-309.221(b) for the amount displayed in Table 1.

**Table 1. Financial Assurance Costs for Deposit.**

	Brickhaven	Colon Mine	Total
Closure (per acre)	\$5,992,560.00	\$5,464,470.00	\$11,457,030.00
Post Closure	\$2,208,000.00	\$2,916,000.00	\$5,124,000.00
Potential Assessment and Corrective Action	\$2,000,000.00	\$2,000,000.00	\$4,000,000.00
Departmental Costs to Respond to an Incident	\$65,000.00	\$65,000.00	\$130,000.00
<b>Total</b>	<b>\$10,265,560.00</b>	<b>\$10,445,470.00</b>	<b>\$20,711,030.00</b>

Closure - Brickhaven, 34.8 acres x \$172,200 per acre, Colon Mine Site, 31.9 acres x \$171,300 per acre.

Post-Closure - Full post-closure care amount per Site as described in Revised Application, Addendum 3, March 16, 2015

Potential Assessment and Corrective Action - \$2,000,000 per site as described in Addendum 3, March 16, 2015

Sudden and Non-Sudden Accidental Occurrence liability insurance shall be maintained for all Sites at a combined liability coverage in the amount of at least \$4 million per occurrence and \$8 million annual aggregate.

Should there be any questions or concerns regarding financial assurance, feel free to contact me at 919-707-8281.

Sincerely,



Edward Mussler  
NCDENR, Division of Waste Management

Digitally signed by Edward F.  
Mussler III, P.E.  
DN: cn=Edward F. Mussler III,  
P.E., o=NCDWM, ou=Solid  
Waste Section,  
email=ed.mussler@ncdenr.g  
ov, c=US  
Date: 2015.03.20 11:13:57  
-04'00'

cc: Norman Divers, Charah  
Sarah Rice, DWM/SWS  
Larry Frost, DWM/SWS  
Jason Watkins, DWM/SWS